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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/410,129	09/30/1999	PAUL D. STARRETT	4515/84415	6404

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/410,129

Applicant(s)

STARRETT, PAUL D.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 09 June 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The corrected or substitute drawings were received on June 10, 2003. These drawings are not approved because the banding devices in figures 7B and 8B are shown as ties with sockets in the images submitted September 30, 1999 and not as smooth bands as shown in the substitute drawings. The images submitted September 30, 1999 are properly drawn in figures 7C and 8C. The specification as filed indicates the banding material is a small nylon loop (page 4, lines 14-15). This describes the images in figures 7B and 8B as originally submitted. Applicant has no written description in the application as filed to support the new figures 7B, 8B which show a smooth band with no joints forming the loop. A loop is a flexible element having a portion folded or doubled upon itself so as to leave an opening between the parts and this is descriptive of images in figures 7B and 8B as originally submitted. Applicant's submission in figures 7B and 8B received on June 10, 2003 is a separate species comprising a ring without gaps and applicant has not shown that a smooth band without ends has written description in the specification as filed. Loops can have many configurations and applicant has chosen one of many possible "loops" for inclusion as new figures 7B and 8B. For the inclusion of a particular "loop" as figures in this application there must written description to choose from the many possible loops and inclusion would be appropriate if there was some discriminant in the written description as filed to choose the particular "loop" applicant submits in new figures 7B and 8B. However, there is no further description beyond "loop" and the use of the term banding

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material. The loop formed by a strap with a socket is the only species described in the application as filed. New figures 7B and 8B are not approved. The subject matter submitted in figures 1A-1E is approved.

Specification

The specification is objected to because the unapproved figures 7B and 8B are described in the brief description of the drawings on page 5, replacement paragraphs six and seven, and in the detailed description of the preferred embodiments on page 7, replacement paragraphs two and three. Since figures 7B and 8B have not been approved the portions of the specification referring to these figures is objected to. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-28 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The strap is characterized as "rigid" (claim 21, lines 4, 5; claim 23, line 1; claim 25, lines 3, 5; claim 27, line 1). However, there is no written description in the application as filed for the strap being "rigid". The specification does not characterize the strap as rigid or unyielding and this would appear to be a term

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contrary to the nature of the strap since the strap certainly yields when it is coiled. The specification uses semi-rigid.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peden (US 5469813) in view of Arthur (US 1797539) and Geisinger (US 5193254).

Peden (figure 2) teaches a tightly coiled restraint 10 for securing a prisoner by binding both legs together with the restraint 10 and the restraint 10 secured to handcuffs 80. The restraint 10 is tightly coiled so as to be easier to store and has more than three coiled loops. The stored configuration is made by rolling the restraint 10 into a coil with more than three loops. The difference is that it lacks a banding device to maintain the coil in place and the restraint is not a single coiled toothed strap with a single slot comprising a handcuff. However, Arthur (figures 1 and 2) teaches the use of a rubber band 1 to hold the coiled film together and maintain it from unwinding while the film is being stored. Arthur's teaching is an example of the well known use of banding devices to keep coiled material from unwinding when stored. Further, Geisinger (figures 1, 7, 9 and 13) teaches that it is well known to have a handcuff or angle restraint (col. 2, lines 52-56) comprising a single toothed strap 2 with a single slot 3d so as to restrain a prisoner. Geisinger suggests that it is well known to utilize a restraint upon a prisoner

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that only restrains the hands as being desirable rather than one that immobilizes hands and feet so that the prisoner can still walk while having their hands restrained though the restraint can be used to restrain the feet if so desired. Since it would be a benefit to prevent the coil of Peden from unwrapping, it would have been obvious to modify the tightly coiled restraint 10 of Peden so that it has a banding device to further aid in maintaining the stored configuration in view of Arthur teaching the use of a rubber band 1 to hold coiled material together so as to prevent it from unwinding when stored and to modify the prisoner restraint of Peden so that it is a handcuff that is coiled rather than a leg restraint joined to handcuffs in view of Geisinger teaching that it is well known to utilize handcuffs alone comprising a single toothed strap 2 with a single slot 3d so as to restrain a prisoner while permitting the prisoner to walk. Geisinger suggests the use of a very strong nylon product (col. 3, line 63 - col. 4, line 6) to be desirable, thereby rendering obvious the use of nylon or a particular type of nylon such as impact enhanced nylon 66, as these are well known strong materials.

Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bingold (US 5159728) in view of Arthur (US 1797539) and Peden (US 5469813).

Bingold (figure 1, 1a, 2) teaches disposable handcuff structure comprising two tightly coiled toothed straps 14, 16 and a two slot, toothed socket clasp 21 at about the midpoint of the straps as shown in figure 1. The slots 51, 52 are to permit the straps 14, 16 to be coiled so that the handcuff is more easily carried (col. 9, lines 39-51) and are not used when the handcuff is secured to a prisoner. The difference is that there is no banding device to hold the coils in place and it lacks three tight concentric loops.

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However, Arthur (figures 1 and 2) teaches the use of a rubber band 1 to hold the coiled film together and maintain it from unwinding while the film is being stored. Arthur's teaching is an example of the well known use of banding devices to keep coiled material from unwinding when stored. Further, Peden (figure 2) teaches a tightly coiled restraint 10 for securing a prisoner by binding both legs together with the restraint 10 and the restraint 10 secured to handcuffs 80. The restraint 10 is tightly coiled so as to be easier to store and has more than three coiled loops. The stored configuration is made by rolling the restraint 10 into a coil with more than three loops. Since it would be a benefit to prevent the coil of Bingold from unwrapping to make it more compact for storage, it would have been obvious to modify the structure of Bingold so as to further provide the added securement of an elastic band to hold the coils in place in view of Arthur teaching the use of a rubber band 1 to hold coiled material together so as to prevent it from unwinding when stored as being desirable to maintain the coiled material in the storage configuration and to further modify the device so that more loops are created by the strap would have been obvious in view of Peden suggesting that the use of a greater number of tightly coiled loops would have been obvious as an extension of the use of looping for storage by Bingold so as to have more loops. Bingold suggests the use of a very strong nylon product (col. 5, lines 17-24) to be desirable, thereby rendering obvious the use of nylon or a particular type of nylon such as impact enhanced nylon 66 (col. 5, line 21), as these are well known strong materials.

Response to Arguments

Applicant's arguments filed June 9, 2003 have been fully considered but they are not persuasive.

Applicant identifies the loops in figures 7C and 8C as submitted June 9, 2003 as "In accordance with these embodiments, once the single cuff has been coiled, the cuff is banded with, for example, a Nylon loop having a locking head 74" (replacement paragraph, page 7, ¶2) and "In accordance with these embodiments, once the double cuff has been coiled, the cuff is banded with, for example, a Nylon loop having a locking head 86" (replacement paragraph, page 7, ¶3). Applicant himself recognizes from these passages that the use of "loop" is fully descriptive of the original images in figures 7B and 8B as originally submitted. There is no written description in the application as filed to support the inclusion of new figures 7B and 8B as submitted showing smooth banding material.

Applicant argues that the device of Bingold only permits two concentric loops, not three, and has "loose" coiling rather than "tight" coiling. As to the "loose" coiling, Peden suggests "tight" coiling of a prisoner restraint with more than three loops as being desirable for compact storage. Further, while Bingold only has two concentric loops, Peden suggest the use of more than two loops in a prisoner restraint for more compactness and to modify the device of Bingold to permit more than two loops would have therefore been obvious so as to have a more compact package as evidenced by Peden as being desirable.

Peden is argued by applicant as only showing the coiling of a flexible restraint and not suggesting the coiling of a rigid material. Peden is utilized as showing the

desirability of coiling linear restraints. The need of providing a compact storage for restraints is recognized in this field of endeavor by Peden and applicant's argument that this would only be recognized for flexible linear restraints and not other flexible linear restraints that possess flexibility to a lesser extent is unpersuasive.

In regard to Arthur, the argument is made that the rubber band of Arthur would not possess the needed degree of strength to prevent the uncoiling of the restraint. However, this is not persuasive because applicant appears to be arguing applicant's disclosure of the banding device being made of nylon, which is not claimed. The device of Arthur is made of rubber, but satisfies the need of preventing coiled flexible linear material, film, from uncoiling and maintaining the coiled state. Rubber is a well known strong binding material, and while not nylon, it suggests a banding device readily usable to hold a coiled restraint in its coiled state. The argument is not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

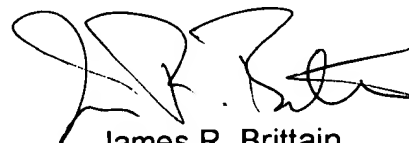
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain
Primary Examiner
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JRB